

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15610 of the William Brawner Company, pursuant to 11 DCMR 3108.1, for a special exception under Section 335 to establish a substance abusers' home, and a variance to allow a substance abusers' home for more than 15 persons (Subsection 335.1) for the alteration and conversion of a structure to establish a substance abusers' home for 40 persons in an R-4 District at premises 1949 4th Street, N.E., (Square 3615, Lot 47).

HEARING DATE: December 11, 1991
DECISION DATE: January 8, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The subject property is located in an R-4 District at premises 1949 4th Street, N.E., (Square 3615, Lot 47).

2. The property consists of a vacant 18-unit apartment building which once housed approximately 78 tenants. The applicant's certificate of occupancy permits it to operate the building as an apartment house.

3. Most of the buildings in the area are two and three-story residential rowhouses. The neighborhood is plagued by a high incidence of crime and drug abuse.

4. The applicant intends to lease the property to RAP, Inc., which will use it as a community-based residential facility for 40 persons. The facility will provide housing and counseling to 40 drug-abusers and criminal offenders who have completed one year of rehabilitation at RAP's Forest Haven facility and are ready to reenter the community. The rehabilitation and reentry stages are presently conducted in the same building at Forest Haven, but have occasionally been conducted in separate buildings.

5. No community-based residential facility is located in Square 3615 or within 500 feet of the proposed facility.

6. No more than seven or eight employees will be working at the facility at any one time.

7. Residents would be permitted to have cars only when absolutely necessary.

8. An average of six persons are expected to visit the facility every day. The facility will not sponsor open houses.

9. RAP will install a rear entrance and make other changes to ensure that the building meets all applicable code requirements.

10. The facility will be located near a recently approved housing apartment complex run by So Others Might Eat (SOME). The facility will be near other buildings which presently host programs administered by Unwed Mothers and the Busy Bee Community Organization.

11. The facility will be supervised at all times and will be subject to frequent security checks. Visitors will be required to sign a log when they enter the facility, and residents will be required to adhere to strict daily schedules.

12. RAP expects to initially house 15 to 20 residents at the facility, although RAP believes that the demand for its program will increase to a facility for 40 residents.

13. By Order No. 14714, dated July 22, 1988, the Board conditionally approved a similar use of the subject site for a total of 36 residents. The project failed to go forward because of RAP's inability to obtain financing before the expiration of the Board's approval. A grant from the Department of Housing and Development has now been granted pending Board approval of the application.

14. The Office of Planning (OP) by memorandum dated December 4, 1991, recommended conditional approval of the application. The OP was of the opinion that the proposed facility would not create significantly adverse impacts that would be detrimental to the neighborhood or the public good. The OP was further of the opinion that the establishment of the facility for a total of 40 persons would not adversely impact the use of neighboring Properties nor would it impair the intent and purpose of the Zoning Regulations for the R-4 District. The OP recommended that approval of the application be conditioned as in BZA Order No. 14714 with the exception that the number of residents be increased from 36 to 40.

15. Advisory Neighborhood Commission (ANC) 5C, by letter dated December 10, 1991, supported the granting of the application. The ANC's support was generally based on the following:

- a. There is an urgent demand for community residence facilities for substance abusers who are in recovery in the city.

- b. RAP, Inc., is a nationally renowned treatment resource dedicated to the healing and rehabilitation of District of Columbia citizens suffering from the disease of drug addiction.
- c. RAP has entered into an agreement to work closely with the ANC and community to reduce any possible adverse impacts on the community, as well as to provide drug education and prevention activities for youth in the area.

The ANC recommended that the conditions outlined in BZA Order No. 14714 be continued in the subject case.

16. Councilmember Harry L. Thomas, by letter dated December 3, 1991 supported the granting of the application. Councilmember Thomas' support was based on RAP, Inc.'s programs to assist, rehabilitate and counsel drug abusers and its positive potential in an area which is plagued by drug related violence.

17. A resident of 1937 4th Street, N.E. testified at the public hearing in opposition to the granting of the application. The opposition was generally based on the potential adverse impacts of the project in terms of parking congestion and the cumulative impacts of multiple community residence facilities on the immediate area.

FINDINGS OF FACT:

1. The Board finds that the applicant has met the requisite burden of proof pursuant to 11 DCMR 335, 3108.1 and 3107.2.

2. The Board finds that the proposed use will not cause noticeable increases in traffic or population density. The impact, if any, will be less than that produced by a matter-of-right use under the existing certificate of occupancy.

3. The Board finds no evidence that there are other community residence facilities as defined by the Zoning Regulations in the immediate area of the subject site.

CONCLUSIONS OF LAW AND OPINION:

The applicant is requesting a special exception pursuant to Subsection 3108.1 and a variance pursuant to 3107.2 to establish a community-based residential facility for 40 people. To qualify for the special exception, the applicant must show that it has satisfied the requirements of Section 303 and that the granting of the special exception is consistent with the general purpose and intent of the Zoning Regulations and Map and will not adversely affect the use of neighboring property. To justify the granting

of the variance relief, the applicant must demonstrate a practical difficulty upon the owner inherent in the property itself and that the relief can be granted without impairing the intent, purpose and integrity of the zone plan.

Based on the foregoing findings of fact, the evidence of record and the conditions herein imposed, the Board concludes that the applicant has satisfied all the requirements of Subsections 3108.1, 3107.2 and 315. No other community-based residential facilities are located in the block or within 500 feet of the proposed facility and no off-street spaces are necessary to ensure adequate parking. The proposed facility will meet all applicable codes and will not have an adverse impact on the neighborhood, but need accommodate no more than 40 residents to achieve its objectives. The Board concludes that it is not reasonable to limit the structure to a matter-of-right occupancy of 15 residents when the structure was originally designed and occupied as an apartment building accommodating up to 78 persons. A capacity of 40 residents would represent a reduction of any potential impacts on the community as compared to its matter-of-right use as an apartment building. The facility is also consistent with the intent and purpose of the Zoning Regulations and Map and will not adversely affect the use of neighboring property.

The Board has accorded the ANC the "great weight" to which it is entitled. It is therefore **ORDERED** that the application is **GRANTED, SUBJECT** to the following **CONDITIONS**:


1. Approval shall be for a period of **THREE YEARS**.
2. The number of residents shall not exceed 40.
3. The premises must be supervised 24 hours per day.
4. The maximum number of employees on the premises at any given time shall not exceed six.
5. The exterior of the premises shall be maintained in a neat and orderly appearance and a safe and clean condition.
6. No more than five residents shall be permitted to own automobiles.

VOTE: 4-0 (Charles R. Norris, Sheri M. Pruitt and Paula L. Jewell to grant; Lloyd D. Smith to grant by proxy; Carrie L. Thornhill not voting, not having heard the case).

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: AUG 28 1992

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



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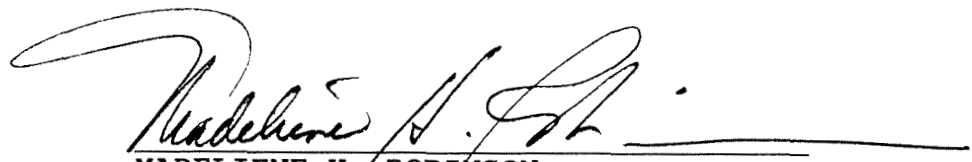
As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 28 1992 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Ron Clark, Executive Director
RAP, Inc.
3451 Holmead Place, N.W.
Wash, D.C. 20010

James D. Berry, Jr., Chairperson
Advisory Neighborhood Commission 5-C
1723 - 3rd Street, N.E.
Washington, D.C. 20002

William Brawner Company
888 17th Street, N.W.
Wash, D.C. 20006

Michael C. Johnson
1937 4th Street, N.E.
Wash, D.C. 20002


MADELIENE H. ROBINSON
Acting Director

DATE: AUG 28 1992